BILL NO. S-83-11-53

SPECIAL ORDINANCE NO. S-24883

AN ORDINANCE approving Purchase Agreement - Baer Field Water Distribution System, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That Purchase Agreement - Baer Field Water Distribution System, in connection with the Board of Public Works for:

> the acquisition of the water supply, treatment and distribution system at Baer Field;

involving a total cost of Two Hundred Thousand and No/100 Dollars ($200,000.00), all as more particularly set forth in the Purchase Agreement, and which is on file with the Office of the Board of Public Works, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Victura Scruggs
Councilmember

APPROVED AS TO FORM
AND LEGALITY

Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by Scruggs, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19___, at _____ o'clock ___.M.,E.S.T.

DATE: 11-22-83 Sandra E. Kennedy
CITY CLERK

Read the third time in full and on motion by Gia Quinta, seconded by Stier, and duly adopted, placed on its passage. PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	6	1	2		
BRADBURY	✓				
BURNS			✓		
EISBART	✓				
GiaQUINTA	✓				
SCHMIDT			✓		
SCHOMBURG		✓			
SCRUGGS	✓				
STIER	✓				
TALARICO	✓				

DATE: 12-13-83 Sandra E. Kennedy
- CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (SPECIAL) (~~APPROPRIATION~~) ORDINANCE (~~RESOLUTION~~) NO. P-248-83 on the 13th day of December, 19 83.

ATTEST: (SEAL)

Sandra E. Kennedy
CITY CLERK

Ray A. Eisbart
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of December, 19 83, at the hour of 1:00 o'clock P.M.,E.S.T.

Sandra E. Kennedy
CITY CLERK

Approved and signed by me this 15th day of December 19 83, at the hour of 3 o'clock P.M.,E.S.T.

[signature]
WIN MOSES, JR. - MAYOR

73-212-29
11/2/83
H.I.

PURCHASE AGREEMENT

BAER FIELD WATER DISTRIBUTION SYSTEM

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PURCHASE AGREEMENT

INTRODUCTION

This is an agreement between the Board of Aviation Commissioners of the City of Fort Wayne, Indiana, hereinafter referred to as the "Commission" and City Utilities of the City of Fort Wayne, Indiana, managed by and through the Board of Public Works, hereinafter referred to as the "Utility".

WITNESSETH:

WHEREAS, the Commission owns and operates a water distribution system and treatment facility at Baer Field, including well sites, pumping equipment, piping, mains, hydrants, valves and appurtenances thereto. It supplies water to its own facilities, to the Indiana Air National Guard, to customers in the terminal building and to other entities, under the terms of its lease or sale arrangements with them; and

WHEREAS, the Commission's operations are subject to review by the Federal Aviation Administration, (FAA). In the execution of this agreement, the Commission shall determine and obtain all the necessary FAA approvals; and

WHEREAS, by "Memorandum Of Understanding" executed March 19, 1969, the Commission sold and the Utility purchased the sewage collection system located in and near Baer Field. Payment of the purchase price is being made by crediting the Commission for sewage charges incurred. Based upon the current sewage rate charge, the balance of the purchase price will be fully paid in 3.5 years, after which the Commission shall be required to pay sewage charges to the Utility; and

WHEREAS the Commission desires to sell all of its water distribution system and water treatment facility, (excluding certain buildings and land), situated and lying north and south of Ferguson Road; and

WHEREAS, the Utility, upon acquisition of both the system and the facility, will supply water for both domestic and fire use to the Commission property, customers and users.

NOW THEREFORE, in consideration of the foregoing premises, and the mutual considerations and agreements hereinafter contained, the Commission and the Utility agree as follows:

ARTICLE I - PURPOSES OF AGREEMENT

This agreement is intended to provide:

A. For the acquisition of the water supply, treatment and distribution system by the Utility;

B. For the payment of the purchase price;

C. For the supply of water for both domestic use and fire use, to the Commission and their customers, and the billing bases for the same;

D. For the granting of sufficient easements for the maintenance of the water distribution system acquired;

E. For an adequate supply of water for both domestic and fire use to meet the needs of customers created by future industrial and commercial expansion;

F. For the orderly transfer of the customers, operations and the ownership of the assets; and

G. For the supersedence and termination of a certain Memorandum of Understanding, dated September 22, 1982, between the parties.

ARTICLE II - ACQUISITION

The Commission hereby sells and transfers, and the Utility hereby receives and accepts, the water distribution system and treatment facility, including all well-sites, pumping equipment, piping, mains, hydrants, valves, and appurtenances thereto, situated on Commission property at Baer Field, and also situated and lying north and south of Ferguson Road, Allen County, Indiana, as shown on Exhibit "A" hereto, for the purchase price of Two hundred thousand and no/100 ($200,000.00) Dollars.

ARTICLE III - PAYMENT OF THE PURCHASE PRICE

The Purchase Price set forth in ARTICLE II-ACQUISITION shall be paid to the Commission, by the Utility, in the following manner:

1. The Utility shall deliver to the Commission on the 10th day of January, 1984 at 10:00 o'clock A.M. its check or bank draft for the entire purchase price of Two hundred thousand and no/100 Dollars.

2. The Commission shall, at the same time, execute and deliver to the Utility, a full and proper bill of sale conveying the property herein to be purchased.

3. The closing of this transaction shall occur at the offices of the Board of Works of the City of Fort Wayne.

ARTICLE IV - WATER SUPPLY

It is currently intended that the water supply to the Commission and its customers, lessees and purchasers, and to the Utility's customers shall be provided by an interconnection to the Utility's water distribution system. Nevertheless, the Utility reserves the right to maintain the existing well-sites and treatment facilities in such ready or standby condition as it may deem appropriate.

In the event that the Utility shall discontinue the use of the well sites or the treatment facilities, or the maintenance of the same, the Utility shall give due and proper notice thereof to the Commission and thereupon the responsibility for the maintenance and security of the lands upon which the same are situated shall revert to the Commission.

Simultaneous to the execution of this Agreement, the Commission shall supply to the Utility a listing of all persons who are water customers of the Commission, and thereafter, the Commission shall advise and inform the Utility of any change in billing or services which may occur as a result of the Commission leasing, selling or developing any portion of its properties, including tenancies within the terminal building.

As of January 1, 1984, the Utility shall commence ownership and operation of the acquired properties and shall thereafter be responsible for the maintenance, the supplying of water, and the usage billing to the Indiana Air National Guard, to the Commission and to all of the Commission's customers and users.

The Memorandum of Understanding between the parties, dated September 22, 1982, shall terminate and be of no further effect as of the date of operations by the Utility under this contract.

The Utility shall thereafter make actions appropriate to the metering of water usage as required and set forth in the Rules and Regulations of the Utility, and shall supply water and establish charges for the same.

The Utility will meter those locations occupied and utilized by the FAA, and shall periodically bill such services to the Commission, it being a condition of the contractual agreements between said Commission and the FAA that such services be supplied to FAA without charge.

All charges for water, fire service, and sewage made to the Commission or to its lessees, tenants or purchasers, whether billed to said customer or to the Commission, shall be in such amounts as are determined and appropriately approved by the Utility and charged to regular commercial customers of the Utility in accordance with the Rules and Regulations of the Utility and the Rate Schedule then and thereafter in effect.

In order to provide a continuity of service and to enable the water distribution system to be integrated into and supplied by the Utility's water distribution system, the Utility may, on and after the date of this Agreement, enter upon the lands of the Commission and may install required meters, undertake necessary construction and perform maintenance.

Any entry by the Utility onto the operations area shall be subject to the approval of the Airport Manager or a staff member.

To facilitate to northwesterly extension of the Baer Field runway, designated as Three-one , the Utility shall cooperate with the Commission and its contractors, in the following manner:

Plans and designs for such runway extension currently contemplate the closing and abandonment of a portion of Indianapolis Road, and in order to provide water services to those lands and areas lying south and west of said runway extension, it will be necessary to extend a water main under the proposed runway extension.

The Commission shall include in its runway extension design and construction plans, the installation of this water main extension, of the size specified by the Utility's Chief Water Engineer. It is contemplated, as of the date of this Agreement, that the Commission will install a 30-inch stel sleeve, approximately 1000 feet in length, containing cast-iron water pipe.

The cost associated with this installation, including the structure (liner) to house and carry the water main under the runway, shall be the expense of the Commission. The Utility shall, at its expense, supply to the Commission's contractor, all the materials, such as pipe, valves, elbows, etc., required for the specified water main installation.

ARTICLE V - EASEMENTS

The Commission hereby grants to the Utility an easement for the purposes of entry, maintenance, repair, removal and replacement of such water distribution system, on and across the lands of said Commission, which easement is generally described as being Twenty (20) feet in width and having as its centerline, the location of the pipes and piping herein conveyed. This grant shall not require the removalk or relocation of any existing structure, and the Commission shall have the right, at its expense, to relocate the piping and easement to accomodate new construction.

In order that Airport operations shall not be disrupted by maintenance and construction activities of the Utility, the Commission shall advise the Utility of reasonable restrictions related to access, maintenance and construction, and shall provide to the Utility a safe means of access to any working area, and the Utility, if in compliance with such restrictions, shall not be responsible for interruption of, or interference with, airport activities. The Commission herein grants to the Utility such licenses for access and repair or service as may, from time to time, be necessary to properly and safely conduct such repair and maintenance, and provide services. Any entry by the Utility onto the operations area shall be subject to the approval of the Airport Manager or a staff member.

ARTICLE VI - RISK OF LOSS

In the event that any material portion of the properties herein purchased shall have been destroyed or damaged prior to January 1, 1984, on which date transfer of ownership of the properties herein purchased shall occur, such loss and cost of repair shall be borne by the Commission.

ARTICLE VII - EMPLOYEES

Water distribution employees of the Commission shall not, by this contract, become employees of the Utility. In the event, however, that any such employee shall, as a direct result of the execution of this contract no longer be employed by the Commission and apply to, and be accepted as a Utility employee, such employee shall retain such date of service as the Personnel Department of the Utility may in its sole discretion determine, considering contractual obligations of the Utility.

The Utility agrees that it shall, as of the transfer date, January 1, 1984, and for a period of not less than one-year thereafter, employ one (1) person formerly employed by the Commission as a water distribution employee, such employee to be mutually agreeable to the Utility and the Commission.

ARTICLE VIII - REAL PROPERTY

The title to all lands now or hereafter owned by said Commission shall be retained by said Commission and are not, by this agreement, deeded or conveyed to the Utility. All easements for water mains, vested in the Commission, affecting land not owned by the Commission, are transferred and conveyed to the Utility. Building(s) now containing the well-site pumps and treatment plant equipment shall be retained by the Commission, but the pumps, treatment equipment and appurtenances shall be the property of the Utility.

ARTICLE IX - RIGHTS OF THIRD PARTIES

It is specifically intended that this Agreement does not create any rights in favor of any person not a party to this Agreement.

ARTICLE X - EXPENSE

Each party shall bear its own legal and consultant expenses in the negotiation and execution of this Agreement.

ARTICLE XI - APPROVALS REQUIRED

By the execution of this Agreement the Board of Aviation Commissioners warrants that it has obtained any approvals necessary and required of both the FAA and the Indiana AIr National Guard.

EXECUTION

IN WITNESS WHEREOF, this contract has been executed by the parties as of the last date of signature and/or approval.

Approved this 21 st day of September, 1983

BOARD OF AVIATION COMMISSIONERS

Herbert J. Weber, President

Harley Graham, Member

David Siegel, Member

Karl Bandemer, Member

Approved as to form
and legality

John E. Hoffman, Attorney
for the Board of Aviation
Commissioners

CITY OF FORT WAYNE

Winfield C. Moses, Mayor

Attest:

Sandra E. Kennedy
City Clerk

Approved this 2nd day of November, 1983

BOARD OF PUBLIC WORKS

Stephen A. Bailey, Chairman

Betty R. Collins, Member

Jack Wilson, Member

Attest:

Helen V. Gochenour,
Clerk

Approved as to form
and legality

Bruce O. Boxberger
City Attorney

State of Indiana)
)SS:
County of Allen)

Before me, a Notary Public in and for said County and State, personally appeared Herbert J. Weber, Harley Graham, David Siegel, and Karl Bandemer, the Chairman and members of the Board of Aviation Commissioners of the City of Fort Wayne, Indiana, who acknowledged execution of the foregoing PURCHASE AGREEMENT for and on behalf of said Board of Aviation Commissioners.

Witness my hand and notarial seal this 19th day of October, ,1983.

(John E. Hoffman)
Notary Public

Resident of Allen County, Indiana
My Commission expires

December 14, 1985

State of Indiana)
)SS:
County of Allen)

Before me, a Notary Public in and for said County and State, personally appeared Winfield C. Moses, Jr. Mayor of the City of Fort Wayne, Indiana, who acknowledged execution of the foregoing PURCHASE AGREEMENT for and on behalf of said City of Fort Wayne, Indiana.

Witness my hand and notarial seal this 2nd day of November ,1983.

Thelma A. Morris
THELMA A. MORRIS
Notary Public

Resident of Allen County, Indiana
My Commission expires

State of Indiana)
)SS:
County of Allen)

Before me, a Notary Public in and for said County and State, personally appeared Stephen A. Bailey, Betty R. Collins, and Jack Wilson, the Chairman and members of the Board of Public Works of the City of Fort Wayne, Indiana, who acknowledged execution of the foregoing PURCHASE AGREEMENT for and on behalf of said Board of Public Works.

Witness my hand and notarial seal this 2nd day of November ,1983.

Thelma A. Morris
THELMA A. MORRIS
Notary Public

Resident of Allen County, Indiana
My Commission expires

This instrument prepared by:
Robert D. Colestock,
Attorney

BILL NO. S-83-11-53

REPORT OF THE COMMITTEE ON FINANCE

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED AN ORDINANCE approving Purchase Agreement - Baer Field Water Distribution System, in connection with the Board of Public Works

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE DO PASS.

MARK E. GiaQUINTA, CHAIRMAN

JAMES S. STIER, VICE CHAIRMAN

JANET G. BRADBURY

SAMUEL J. TALARICO

DONALD J. SCHMIDT

Concurred
12-13-83

6483

Admn. Appr.

TITLE OF ORDINANCE Purchase Agreement - Baer Field Water Distribution System

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

S-83-11-53

SYNOPSIS OF ORDINANCE This is agreement for the acquisition of the water supply, treatment and distribution system at Baer Field.

EFFECT OF PASSAGE Acquisition will provide City Utilities with opportunity for economic growth in Baer Field.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) $200,000

ASSIGNED TO COMMITTEE